

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

RONALD A. KATZ TECHNOLOGY	)	
LICENSING, L.P.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 06-544 (GMS)
	)	
TD BANKNORTH, INC., <i>et al.</i> ,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendants.	)	
	)	

---

**PLAINTIFF RONALD A. KATZ TECHNOLOGY LICENSING, L.P.’S  
REPLY TO DEFENDANTS DILLARD’S, INC.  
AND DILLARD INVESTMENT CO., INC.’S COUNTERCLAIM**

---

Plaintiff and Counterclaim-Defendant Ronald A. Katz Technology Licensing, L.P. (“Katz Technology Licensing”) replies to the Counterclaim of Defendants and Counterclaim-Plaintiffs Dillard’s, Inc. and Dillard Investment Co., Inc. (collectively “Dillard’s”) as follows:

**NATURE OF THE ACTION**

1. Katz Technology Licensing admits that, by its Counterclaim, Dillard’s purports to seek a judgment declaring that the claims of U.S. Patent Nos. 6,148,065; 5,972,120; 6,349,134; 4,930,150; 6,434,223; 5,251,252; 5,351,285; 6,678,360; 5,815,551; 5,828,734; 5,684,863; 5,917,893; 6,335,965; 4,792,968; and 5,128,984 (collectively, “the patents-in-suit”) are invalid and not infringed. Katz Technology Licensing denies the remaining allegations set forth in Paragraph 1 of Dillard’s Counterclaim.

**JURISDICTION AND VENUE**

2. Katz Technology Licensing: (a) admits that this Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) and 35 U.S.C. § 1 *et seq.*;

(b) admits that Dillard's purports to bring its counterclaim for a declaratory judgment pursuant to 28 U.S.C. § 2201, as alleged in Paragraph 2 of its Counterclaims; and (c) denies the viability of that request for a declaratory judgment. Katz Technology Licensing further admits that venue is proper in this judicial district as alleged in Paragraph 2 of Dillard's Counterclaim. Katz Technology Licensing denies the remaining allegations set forth in Paragraph 2.

### **THE PARTIES**

3. On information and belief, Katz Technology Licensing admits that Dillard's, Inc. is a corporation organized under the laws of the State of Delaware having its principal place of business in Little Rock, Arkansas. On information and belief, Katz Technology Licensing further admits that Dillard Investment Co., Inc. is a corporation organized under the laws of the State of Delaware having its principal place of business in Little Rock, Arkansas.

4. Katz Technology Licensing admits that it is a California limited partnership with its principal place of business in Los Angeles, California, as alleged in Paragraph 4 of Dillard's Counterclaim.

### **ACTS GIVING RISE TO THE COUNTERCLAIM**

5. In response to Paragraph 5 of Dillard's Counterclaim, Katz Technology Licensing admits that it filed a civil lawsuit against Dillard's and other defendants on September 1, 2006, alleging infringement of certain patents.

6. Katz Technology Licensing admits that there is an actual controversy between the parties with respect to Dillard's infringement of the patents identified in Paragraph 89 of Katz Technology Licensing's Complaint. Katz Technology Licensing denies the remaining allegations set forth in Paragraph 6 of Dillard's Counterclaim.

7. Katz Technology Licensing denies the allegations set forth in Paragraph 7

of Dillard's Counterclaim.

8. Katz Technology Licensing admits that Dillard's purports to make a jury demand in Paragraph 8 of Dillard's Counterclaim.

**COUNT I**  
**(Declaratory Judgment of Invalidity, Unenforceability and Non-Infringement)**

9. In response to Paragraph 9 of Dillard's Counterclaim, Katz Technology Licensing realleges and incorporates by reference Paragraphs 1 through 8 of this Reply as if fully set forth herein.

10. Katz Technology Licensing denies the allegations set forth in Paragraph 10 of Dillard's Counterclaim.

11. Katz Technology Licensing denies the allegations set forth in Paragraph 11, including subsections (a)-(g), of Dillard's Counterclaim.

12. Katz Technology Licensing denies the allegations set forth in Paragraph 12 of Dillard's Counterclaim.

13. Katz Technology Licensing denies the allegations set forth in Paragraph 13 of Dillard's Counterclaim.

**PRAYER FOR RELIEF ON DILLARD'S COUNTERCLAIM**

Katz Technology Licensing respectfully requests that, in response to Dillard's Counterclaim, this Court:

1. Dismiss Dillard's Counterclaim with prejudice;
2. Adjudge that Dillard's is not entitled to any relief, including any of the relief requested in Dillard's prayer for relief; and
3. Award to Katz Technology Licensing the relief requested in its Complaint and such other relief as the Court may deem appropriate and just under the circumstances.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Julia Heaney*

---

Mary B. Graham (#2256)  
Julia Heaney (#3052)  
Benjamin J. Schladweiler (#4601)  
1201 N. Market Street  
P.O. Box 1347  
Wilmington, DE 19899-1347  
302.658.9200

*Attorneys for Plaintiff*  
*Ronald A. Katz Technology Licensing, L.P.*

OF COUNSEL:

Robert T. Haslam  
Andrew C. Byrnes  
HELLER EHRMAN LLP  
275 Middlefield Road  
Menlo Park, CA 94025-3506  
650.324.7000

Michael K. Plimack  
Dale A. Rice  
HELLER EHRMAN LLP  
333 Bush Street  
San Francisco, CA 94104-2878  
415.772.6000

November 15, 2006  
545533

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2006, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing to the following William J. Wade, Anne Shea Gaza, Philip A. Rovner, Paul J. Lockwood and Richard Herrmann.

Additionally, I hereby certify that true and correct copies of the foregoing were caused to be served on November 15, 2006 upon the following individuals in the manner indicated:

**BY EMAIL**

William J. Wade  
Anne Shea Gaza  
Richards, Layton & Finger  
[wade@rlf.com](mailto:wade@rlf.com)  
[gaza@rlf.com](mailto:gaza@rlf.com)

Martin J. Black  
Dechert LLP  
[Martin.black@dechert.com](mailto:Martin.black@dechert.com)

David A. Roodman  
Bryan Cave LLP  
[daroodman@bryancave.com](mailto:daroodman@bryancave.com)

Philip A. Rovner  
Potter Anderson & Corroon, LLP  
[provner@potteranderson.com](mailto:provner@potteranderson.com)

Kenneth R. Adamo  
Jones Day  
[kradamo@jonesday.com](mailto:kradamo@jonesday.com)

Paul J. Lockwood  
Skadden, Arps, Slate, Meagher & Flom  
[plockwood@skadden.com](mailto:plockwood@skadden.com)

Daniel A. DeVito  
Skadden, Arps, Slate, Meagher & Glom LLP  
[ddevito@skadden.com](mailto:ddevito@skadden.com)

Richard Herrmann  
Morris, James, Hitchens & Williams LLP  
[rherrmann@morrisjames.com](mailto:rherrmann@morrisjames.com)

Thomas M. Dunham  
Howrey LLP  
[dunhamt@howrey.com](mailto:dunhamt@howrey.com)

Michael Bednarek  
Paul Hastings Janofsky & Walker LLP  
[michaelbednarek@paulhastings.com](mailto:michaelbednarek@paulhastings.com)

*/s/ Julia Heaney*

---

Julia Heaney (#3052)  
[jheaney@mnat.com](mailto:jheaney@mnat.com)